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## Trade Mark Searches in India

Free online search facility has now been introduced and the general public has access to the Trade Mark database for conducting Trade Mark Searches. This will certainly assist applicants in obtaining searches quickly and also in saving costs. Rules regarding Computerized search, where earlier one had to pay a fee for conducting a search, and request for expedited search have been omitted. The Trade Mark Registry will no longer issue any Search Report.

## Increase in Trade Mark filing fees

The Indian Trade Mark Registry has increased the Official Government Fees for filing of Trademark Applications from Rs.2500/- to Rs.3500/- with effect from 29th December, 2010. This intimation was received from the Trade Mark Registry on 11th January, 2011. All applicants who have filed applications after 29th December, 2010 and have paid Rs.2,500/- are required to pay the additional amount of Rs.1000/- immediately failing which their application will not be processed further.

## FROM THE BOMBAY HIGH COURT

Bombay High Court refuses to grant an injunction to Unichem Laboratories Ltd. against Astra Zeneca Pharma India Ltd., in an action filed for an injunction restraining Astra Zeneca from using the trade mark SELORAM. Unichem claimed that the mark SELORAM was similar to their mark LORAM.

## COPYRIGHT

The Government is planning to amend the Copyright Act, 1957 with the object of making certain changes for clarity, to remove operational difficulties and also to address certain newer issues that have emerged in the context of digital technologies and the Internet.

### The proposed amendment seeks to:

Make the provisions of the Act in conformity with World Intellectual Property Organisation's WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT) and to ensure protection to the copyright holders against circumvention of effective technological measures applied for purpose of protection of their rights and circumvention of rights management information and to provide

for punishment for two years and fine for violation of such rights;

Provide exclusive rights and moral rights to performers in conformity with the WIPO Performances and Phonograms Treaty (WPPT);

Provide for definition of new terms, namely "commercial rental", "Rights Management Information" and "visual recording" and to amend the existing definitions of the terms "author", "cinematograph films", "communication to the public", "infringing copy", "performer" and "work of joint authorship

Make provision for storing of copyrights material by electronic means in the context of digital technology and to provide for the liability of internet service providers

Enhance the term of copyright for photographers to "life plus sixty years" instead of only sixty years as at present

Introduce copyright term of seventy years for principal director;

Extend the copyright term for the producer for another ten years that is from sixty years to seventy years if he enters into an agreement with the principal director

Give independent rights to authors of literary and musical works in cinematograph films

Clarify that the authors would have rights to receive royalties and the benefits enjoyed through the copyright societies

Ensure that the authors of the works, in particular, author of the songs included in the cinematograph films or sound recordings, receive royalty for the commercial exploitation of such works

Allow the physically challenged persons to access to copyright material in specialised formats

Make provision for compulsory licensing for certain entities for publication of copyright works in other formats

Introduce statutory licensing for version recordings of all sound recordings to ensure that while making a sound recording of any literary, dramatic or musical work the interest of the copyright holder is duly protected;

Introduce a system of statutory licensing to broadcasting organisations to access to literary and musical works and sound recordings without subjecting the owners of copyright works to any disadvantages;

Make provision for compulsory licence (through the Copyright Board) to publish or communicate to the public such work or translation where the author is dead or unknown or cannot be traced or the owner of the copyright work in such work cannot be found;

Make provision for formulation and administration of copyright societies by the authors instead of the owners;

Make provision for formulation of a tariff scheme by the copyright societies subject to scrutiny by the Copyright Board;

Provide for continuous payment of royalties by aggrieved party pending the appeal before the Copyright Board and the Copyright Board may fix interim tariff pending appeal on the tariff scheme; and

Strengthen enforcement of rights by making provision of control of importing infringing copies by the Customs department, disposal of infringing copies and presumption of authorship under civil remedies.